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## BOOKS OF MEDIEVAL AND MODERN EUROPEAN HISTORY

*The Constitutional History of England.* A Course of Lectures delivered by F. W. MAITLAND, LL.D., late Downing Professor of the Laws of England in the University of Cambridge. (Cambridge: University Press. 1908. Pp. xxviii, 547.)

ONE cannot take up the book in which are printed the lectures on English constitutional history written by Maitland in the winter of 1887-1888 without asking involuntarily whether he is to undergo the fate of Stubbs and to have published a mass of class-room lectures, never intended to see the light, and which he never would have consented to publish without the editing so evidently needed. It takes but little reading, however, to relieve one of the fear. The surprising thing about the book is that it contains so little that Maitland himself would have changed, or materially modified if he had rewritten these lectures twenty years later. That there are some statements that would have been changed, as for instance that on page 157 about the apportionment of military service after the Conquest, is no doubt true, but the lectures are in many things almost an advance programme of Maitland's later work. Again and again in the pages devoted to the first period, the field of his life study, we come upon a brief statement of the ideas elaborated in later works, at that date not even planned. Many of these passages are pointed out by Mr. Fisher, and it suffices to say of the editor's work in this case that it is wholly admirable both in what it says and in what it refrains from saying. The publication also fully justifies itself. It will be of great advantage to the teacher of English constitutional history to have in compendious form, accessible to his students, and easy to be understood, the results of Maitland's work, for this is practically what the book is, notwithstanding the date of the lectures.

Maitland's work upon the medieval constitutional history of England represents a distinct advance over that of Stubbs. This is true both of many details, and, of what is of greater importance, the general conception of the whole subject and of its relations. English constitutional history in his hands is freed entirely from the theory, which Stubbs could never wholly shake off, of a pure Teutonic community developing its institutions naturally without decisive influence from abroad. This Maitland does not do by substituting another general theory in the place of the one abandoned. He does it by studying the constitution in and for itself with little reference to the original sources of institutions, and little use of foreign analogies. The process is a thoroughly scientific and necessary one, and the result is large building on the foundations laid down by Stubbs. It cannot fail to bring materially nearer the time when the English constitution can be put into its proper relation with the Continental constitutions which were forming at the same time. That this needs to be done is evident. The limita-

tions on feudalism described on pp. 161-163, for instance, where they do not need to be modified in statement, are characteristic in greater or less degree of almost every feudal state, and the only peculiarity of England is that which is due to the stronger kingship. When the English constitution is put completely into these relations another step forward in its understanding will be taken.

The lectures were constructed on the plan of what may be called cross-sections at five important points of the history of the constitution: 1307; 1509; 1625; 1702; and 1887. These are not, however, mere cross-sections. They are points from which the view especially runs back over the past and observes growth and change, but where also the lines of connection with the future are made plain. On the general constitutional history of these periods after the first, disregarding the narrower history of the law, Maitland did not write again so fully as here. These portions of the book have, therefore, a peculiar value and are especially welcome. They show abundantly the peculiarities of Maitland's work in his especial field: a sure discernment of the really essential, lucid statement, fresh interpretation, and stimulating views.

Regarded as a text-book Maitland's *History of the Constitution* will fall into a class with Medley, not with Taswell-Langmead. It will be likely to strike the student as a history of the development of details, of separate institutions, rather than of the constitution as a whole. If he gains from its study any clear conception of the historical building up of the Anglo-Saxon type of government, as that has come to prevail in the world, he will get it from the supplementary work of the teacher rather than from the book. For the study of this side of constitutional history Taswell-Langmead still remains the best text-book, notwithstanding the inadequate editing it has received. It needs to be supplemented with some other book, however, and Maitland will probably make a better combination with it, one less difficult for the ordinary undergraduate to manage, than Medley. It will also be surprising if it is not found to be more interesting to the student than either of the other books. Certainly the instructor can further the interests of future scholarship in no better way than by making his advanced students familiar with this book.

GEORGE B. ADAMS.

*Die Geschichte des Englischen Pfandrechts.* Von Dr. jur. HAROLD DEXTER HAZELTINE, Reader in English Law an der Universität Cambridge. [Untersuchungen zur Deutschen Staats- und Rechtsgeschichte, herausgegeben von Dr. OTTO GIERKE, Professor der Rechte an der Universität Berlin.] (Breslau: M. and H. Marcus. 1907. Pp. xxviii, 372.)

THIS valuable and scholarly work on the English law of gage or pledge represents the gathering together and presentation in comprehensive form of several articles and monographs in English and Ger-